

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** April 15, 2005

**To:** The Commission  
(Meeting of April 21, 2005)

**From:** Delaney Hunter, Director  
Office of Governmental Affairs (OGA) — Sacramento

**Subject: SB 578 (Escutia) Railroads: safety**  
As amended April 13, 2005

**Legislative Subcommittee Recommendation:** Support

**Summary:** This bill would 1) replace references to the safety division with references to the Consumer Protection and Safety Division (CPSD), 2) require railroads to notify OES, CHP and designated county public safety agencies in an endangered area of **all** incidents of a runaway train or uncontrolled train movement that involves railcars carrying a hazardous material whether or not an accident or spill occurs, and 3) requires the CPSD to investigate any such occurrence and report its findings concerning the cause or causes to the Commission and for the Commission to include such information in its annual report to the Legislature.

**Digest:** Existing law establishes the safety division of the Public Utilities Commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guide ways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail.

This bill would replace references to the safety division with references to the consumer protection and safety division.

Existing law requires every railroad corporation that transports hazardous materials, as defined, in the state to provide a system map of the state to the Office of Emergency Services and to the commission, showing certain information, to annually submit a copy of its emergency handling guidelines to the office, and to provide specified information in the event of an incident where there is a release or threatened release of a hazardous

material. Existing law requires the commission to require every railroad corporation operating in this state to develop, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with that office, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety. Existing law requires a railroad corporation to promptly notify the office, the department, and the public safety agencies, through a communication to the Warning Center of the office, if there is a runaway train or other uncontrolled train movement threatening public safety, in accordance with the developed communications protocol.

This bill would provide that if a runaway train or uncontrolled train movement involves any railcar carrying a hazardous material, as defined, the railroad corporation is required to promptly notify the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area, whether or not an accident or spill occurs. The bill would require the consumer protection and safety division of the commission to investigate any incident that results in a notification pursuant to this requirement, and to report its findings concerning the cause or causes to the commission and for the commission to include the division's report in its annual report to the Legislature.

#### **Division Analysis (CPSD):**

The bill provides an enhanced safety oversight mechanism to alleviate the occurrence of catastrophic events that adversely impact California's environment, especially in urban areas and provides enhanced public safety as regards the transportation of hazardous materials by railroads.

- CPSD Rail Operations and Safety Inspectors now and historically have investigated all similar incidents when credible information has been received that such an incident has occurred. This bill would expedite the notification of, and capture **all** such incidents for Rail Operations and Safety staff.
- Staff will be able to investigate, perform Root Cause Analysis, and make safety recommendations to affected railroads.
- The additional investigations would not change the responsibilities of the Commission nor alter the program fiscally.

***Program Background***

CPSD Rail Operations and Safety Inspectors currently investigate similar incidents when credible information has been received. However, many are not investigated when a railroad is successful in keeping the incident, and subsequent investigation, “in house”. This bill will require the notification of, and will capture, all such incidents in a timely manner.

**RECOMMENDED AMENDMENTS:** N/A

**LEGISLATIVE HISTORY:** Unknown.

**STATUS:**

Presently in the Senate Committee on Environmental Quality with no scheduled hearing date.

**SUPPORT/OPPOSITION**

Support: California Teamsters Public Affairs Council

Opposition: Pacific, Gas & Electric Company

**STAFF CONTACT**

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**Date:** April 15, 2005

**BILL LANGUAGE:**

BILL NUMBER: SB 578      AMENDED  
BILL TEXT

AMENDED IN SENATE   APRIL 13, 2005

INTRODUCED BY    Senator Escutia

FEBRUARY 18, 2005

An act to amend Sections 309.7 and 7661 of the Public Utilities Code, relating to railroads.

LEGISLATIVE COUNSEL'S DIGEST

SB 578, as amended, Escutia. Railroads: safety.

Existing law establishes the safety division of the Public Utilities Commission. The safety division is responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description, by rail.

This bill would replace references to the safety division with references to the consumer protection and safety division.

Existing law requires every railroad corporation that transports hazardous materials, as defined, in the state to provide a system map of the state to the Office of Emergency Services and to the commission, showing certain information, to annually submit a copy of its emergency handling guidelines to the office, and to provide specified information in the event of an incident where there is a release or threatened release of a hazardous material. Existing law requires the commission to require every railroad corporation operating in this state to develop, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with that office, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety. Existing law requires a railroad corporation to promptly notify the office, the department, and the public safety agencies, through a communication to the Warning Center of the office, if there is a runaway train or other uncontrolled train movement threatening public safety, in accordance with the developed communications protocol.

This bill would provide that if a runaway train or uncontrolled train movement involves any railcar carrying a hazardous ~~substance~~ material, as defined, the railroad corporation is required to promptly notify the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area, whether or not an accident or spill occurs. The bill would require

the consumer protection and safety division of the commission to investigate any incident that results in a notification pursuant to this requirement, and to report its findings concerning the cause or causes to the commission and for the commission to include the division's report in its annual report to the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares each of the following:

(a) The transportation of hazardous materials by railroads through urban areas in California poses a potential danger that warrants heightened care by railroads and by the state, to prevent accidents and spills.

(b) Recent accidents in other states involving the release of toxic substances in lethal amounts, resulting in widespread injury and death, illustrate the need for reassessment by both state and federal authorities of equipment and facility standards, inspection and maintenance programs, and enforcement procedures.

SEC. 2. Section 309.7 of the Public Utilities Code is amended to read:

309.7. (a) The division of the commission responsible for consumer protection and safety shall be responsible for inspection, surveillance, and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. The consumer protection and safety division shall advise the commission on all matters relating to rail safety, and shall propose to the commission rules, regulations, orders, and other measures necessary to reduce the dangers caused by unsafe conditions on the railroads of the state. The delegation of enforcement responsibility to the consumer protection and safety division shall not diminish the power of other agencies of state government to enforce laws relating to employee or environmental safety, pollution prevention, or public health and safety.

(b) In performing its duties, the consumer protection and safety division shall exercise all powers of investigation granted to the commission, including rights to enter upon land or facilities, inspect books and records, and compel testimony. The commission shall employ sufficient federally certified inspectors to ensure at the time of inspection that railroad locomotives and equipment and facilities located in class I railroad yards in California are inspected not less frequently than every 180 days, and all main and branch line tracks are inspected not less frequently than every 12 months. In performing its duties, the safety division shall consult with representatives of railroad corporations, labor organizations representing railroad employees, and the Federal Railroad Administration.

(c) The general counsel shall assign to the consumer protection and safety division the personnel and attorneys necessary to fully

utilize the powers granted to the commission by any state law, and by any federal law relating to rail transportation, including, but not limited to, the Federal Rail Safety Act (45 U.S.C. ~~Secs.~~

*Sec.* 421m, et seq.), to enforce safety laws, rules, regulations, and orders, and to collect fines and penalties resulting from the violation of any safety rule or regulation.

(d) The activities of the consumer protection and safety division that relate to safe operation of common carriers by rail, other than those relating to grade crossing protection, shall also be supported by the fees paid by railroad corporations, if any, pursuant to Sections 421 to 424, inclusive. The activities of the consumer protection and safety division that relate to grade crossing protection shall be supported by funds appropriated therefor from the State Highway Account in the State Transportation Fund. On or before November 30 of each year, the commission shall report to the Legislature on the activities of the safety division, and shall fully document in the report all expenditures of those funds in the audit report provided in subdivision (f) of Section 421.

SEC. 3. Section 7661 of the Public Utilities Code is amended to read:

7661. (a) The commission shall require every railroad corporation operating in this state to develop, within 90 days of the effective date of the act adding this section, in consultation with, and with the approval of, the Office of Emergency Services, a protocol for rapid communications with the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies in an endangered area if there is a runaway train or any other uncontrolled train movement that threatens public health and safety.

(b) A railroad corporation shall promptly notify the Office of Emergency Services, the Department of the California Highway Patrol, and designated county public safety agencies, through a communication to the Warning Center of the Office of Emergency Services, if there is a runaway train or any other uncontrolled train movement that threatens public health and safety, in accordance with the railroad corporation's communications protocol developed pursuant to subdivision (a).

(c) If the runaway train or uncontrolled train movement involves any railcar carrying a hazardous ~~substance as defined in Section 25501 of the Health and Safety Code~~ material as defined in Section 7672, the notification required pursuant to subdivision (b) shall include the information required by subdivision (c) of Section 7673, whether or not an accident or spill occurs.

(d) The consumer protection and safety division shall investigate any incident that results in a notification required pursuant to subdivision (b), and shall report its findings concerning the cause or causes to the commission. The commission shall include the division's report in its report to the Legislature pursuant to Section 316.